

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**USE OF THE DEPARTMENTAL
ALERT LIST BY HRSA**



Daniel R. Levinson
Inspector General

May 2006
OEI-02-03-00011

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. Specifically, these evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness in departmental programs. To promote impact, the reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within HHS. OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops compliance program guidances, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.



E X E C U T I V E S U M M A R Y

OBJECTIVE

To determine the extent to which the Health Resources and Services Administration (HRSA) adheres to policies governing the departmental Alert List.

BACKGROUND

The Alert List is posted on the Department of Health and Human Services (HHS) Intranet site for all agencies that award grants. According to the Awarding Agency Grants Administration Manual (AAGAM), if an awarding agency has concerns about a grantee due to the grantees' inexperience in handling Federal funds, financial instability, inadequate management systems, history of poor programmatic performance, or for other reasons, the agency may place the grantee on the Alert List. The purpose of the Alert List is to safeguard HHS funds by alerting other agencies to these potential risks. Being on the Alert List does not automatically disqualify a grantee from receiving an award.

HRSA is expected to follow the policies governing the Alert List that are found in HHS's "Awarding Agency Grants Administration Manual" (AAGAM). Accordingly, HRSA is expected to place on the Alert List grantees that are designated as high risk, including those that have special award conditions attached to the grant. Special award conditions address a specific grantee vulnerability and may include, for example, drawdown restrictions or more frequent grantee reporting. HRSA is also responsible for checking the Alert List prior to making an award and for consulting with the other agency(s) that initially placed the grantee on the Alert List. HRSA is further expected to monitor grantees on the Alert List and take required actions when it attaches a special award condition to a grant. Additionally, HRSA is responsible for removing grantees from the Alert List or justifying retaining a grantee whose name appears on the Alert List for more than 2 years.

In fiscal year 2002, HRSA awarded a total of \$34 million to grantees that it had placed on the Alert List and another \$60.5 million to grantees that were placed on the Alert List by other agencies.

To determine the extent to which HRSA adheres to policies governing the Alert List, we reviewed the files of HRSA grantees on the March 24, 2003, Alert List. We requested the files of 62 HRSA grantees placed on the Alert List by HRSA, the National External Audit Review

Center, or another agency. HRSA provided 56 files for our review. In these grantee files, we looked for evidence that grants officers followed each of the policies governing the Alert List. We also conducted structured interviews with four grants officers and two grants officials in HRSA.

FINDINGS

HRSA does not consistently follow Alert List policies. We found that HRSA does not consistently follow Alert List policies including placing, checking, consulting, monitoring, and justifying retaining grantees on the Alert List.

HRSA does not consistently place grantees on the Alert List. Grants officers are expected to place a grantee on the Alert List when they designate a grantee as high risk or when they attach a special award condition to a grant, even if the grantee has already been placed on the Alert List by another agency. Grants officers designated a total of 6 of the 56 grantees as high risk. They did not place two of these six grantees on the Alert List. Grants officers also attached at least 1 of the special award conditions as listed in the AAGAM to the grants of 25 of the 56 grantees, but placed only 4 of them on the Alert List.

HRSA does not consistently check the Alert List nor accurately document checking it. Grants officers are expected to check the Alert List prior to an award. Twenty-four of the fifty-six files reviewed had no evidence that the grants officer checked the Alert List. Twenty-six of the remaining thirty-two files contained a copy of a standardized electronic checklist that indicated whether or not the grantee was on the Alert List. Of these 26 checklists, 14 indicated the grantee was not on the Alert List when the opposite was true.

HRSA does not regularly consult with other agencies to obtain information about grantees. Grants officers are responsible for consulting with the agency that placed the grantee on the Alert List to obtain information about the grantee. In the files of the 45 grantees placed on the Alert List by another agency, we found only 2 instances of consultation documented. In our discussions with grants officers, none reported coordinating with agencies that place grantees on the Alert List.

HRSA does not consistently document certain monitoring activities for Alert List grantees. Grants officers are expected to complete certain monitoring activities when they attach a special award condition to a grant. Grants officers attached special award conditions to 25 of the 56 grantees. We found that none of the files for these 25 grantees included transmittal

E X E C U T I V E S U M M A R Y

letters to the grantees indicating the corrective actions required, the time period for correction, and a description of the consequences of not completing actions required. Additionally, 9 of the 15 files of grantees that had payment-related special award conditions did not include notification to the Payment Management System.

HRSA does not provide justification for retaining grantees whose names appear on the Alert List for more than 2 years. Grants officers are expected to provide justification to the Office of Grants when retaining a grantee on the Alert List for more than 2 years. At the time of the file review in August 2003, seven grantees that HRSA placed on the Alert List had been on the list for longer than 2 years. None of these files had justifications to support these grantees remaining on the Alert List.

Grants officers do not use the information on the Alert List to make grant decisions and some report concerns about the information on the Alert List. Grants officers and grants officials reported that decisions about specific grants are based on their own judgments and not from information on the Alert List. One grants officer noted that they put special award conditions on a grant based on their own concerns, and one grants official further noted that the decision to deny a grant is based on their own reasons, not on whether the grantee is on the Alert List.

In our discussions, three of the four grants officers reported that the Alert List is “not at all useful.” Generally, these grants officers explained that the Alert List does not provide current information and that the information on the Alert List is not useful for making decisions about grantees. Grants officials also reported that the Alert List is not always useful, in part because they do not always know when the Alert List is posted. Our review of the Alert List also found that it did not always have complete information.

RECOMMENDATIONS

We determined that HRSA staff do not consistently adhere to policies governing the use of the Alert List. This lack of consistency makes it difficult to ensure that a grantee’s risk of programmatic and/or financial failure is communicated to all agencies that award grants and that HHS funds are appropriately safeguarded. Although grants officers note that the Alert List has a number of limitations, it is critical for each agency that awards grants to adhere to HHS policies to make the Alert List an effective means of conveying grantee risk.

This review was conducted at a time when HRSA was consolidating and centralizing its grants management functions and implementing an

automated grants management system. These changes may bring greater consistency to its grants management functions and better position HRSA to incorporate the following recommendations. Specifically, we recommend that HRSA:

Ensure that grants officers follow Alert List policies. HRSA needs to make the Alert List a higher profile issue and stress that grants staff need to follow Alert List policies. HRSA needs to ensure that grants officers and grants officials follow policies for placing grantees on the Alert List, checking the Alert List, consulting with the agency that placed the grantee on the Alert List, monitoring grantees with special award conditions, and removing or retaining Alert List grantees when appropriate. HRSA also needs to ensure consistency in placing grantees on the Alert List by providing guidance on high risk designations and special award conditions.

Develop methods to ensure that grants officers follow Alert List policies. HRSA should develop methods to ensure that grants officers adhere to Alert List policies.

- Currently, grants officers have a checklist that includes checking the Alert List to determine whether the grantee is on the Alert List. HRSA may consider revising this checklist to include all Alert List policies and requiring grants officers to complete it for each grantee.
- HRSA may consider implementing an internal file review to ensure that grants officers are documenting that they are following Alert List policies and using the Alert List appropriately.
- HRSA may implement a system to notify grants officers when 2-year time periods expire.
- HRSA may consider providing additional guidance to grants officers and their staffs about the importance of using the Alert List and the need to adhere to policies.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

HRSA's comments on our draft report address only the first finding of our report and do not respond to our specific recommendations. Specifically, HRSA notes that both HRSA and the Department recognize circumstances where it is appropriate to apply conditions to ensure short-term compliance or to address minor issues without

placing grantees on the departmental Alert List. HRSA states that OIG may not have been aware of the various types of conditions which have been previously employed and which are now recognized in Department policy. In our response to HRSA's comments, we clarify several aspects of our analysis. We note that our analysis took into account more recent Department policies on special conditions that were not in effect during most of our fieldwork, and that the design of our study eliminated situations that do not require a high risk designation and included only those special award conditions that reflect more serious situations requiring placement on the Alert List. We also note that our review showed that the instances in which HRSA attached a special award condition and did not place the grantee on the Alert List were not to ensure short-term compliance or address an innocuous situation.

▶ T A B L E O F C O N T E N T S

EXECUTIVE SUMMARY i

INTRODUCTION 1

FINDINGS 8

 HRSA does not consistently follow Alert List policies 8

 Several factors may account for HRSA not consistently following
 Alert List policies 11

RECOMMENDATIONS 12

 Agency Comments 13

 Office of Inspector General Response 13

APPENDIXES 15

 A: Code of Federal Regulations 15

 B: Agency Comments 17

ACKNOWLEDGMENTS 21

OBJECTIVE

To determine the extent to which the Health Resources and Services Administration (HRSA) adheres to policies governing the departmental Alert List.

BACKGROUND

The Alert List is posted on the Department of Health and Human Services' (HHS) Intranet site for all agencies that award grants. According to the Awarding Agency Grants Administration Manual (AAGAM), if an awarding agency has concerns about a grantee due to the grantees' inexperience in handling Federal funds, financial instability, inadequate management systems, history of poor programmatic performance, or other reasons, the agency may place the grantee on the Alert List. The purpose of the Alert List is to safeguard HHS funds by alerting other agencies to these potential risks. Being on the Alert List does not automatically disqualify a grantee from receiving an award.

HRSA Grants Management Process

HRSA works to improve and extend life for people living with Human Immunodeficiency Virus and/or Acquired Immune Deficiency Syndrome, provide primary health care to medically underserved people, serve women and children through State programs, and train a health workforce that is both diverse and motivated to work in underserved communities.¹

Within HRSA, grants are administered by the Division of Grants Management Operations housed within the Office of Management and Program Support. At the time of this inspection, HRSA was in the process of consolidating its grants management functions under a single office and starting to implement an automated grants management system. Within the consolidated grants office, there were four grants management officers (hereinafter "grants officers") supervised by the Director of the Division of Grants Management Operations. Grants officers are primarily responsible for the business and other nonprogrammatic areas of grant award and administration. A grants

¹ Health Resources and Services Administration, <http://www.hrsa.gov/default.htm>, accessed 07/08/05.

officer must be appointed for each grant award, but an individual may serve in that capacity for multiple awards.

HRSA grants are awarded and renewed annually in an ongoing process throughout the year. In fiscal year 2002, HRSA awarded \$33.8 million to 15 grantees that it had placed on the Alert List and another \$61.4 million to 47 grantees that other agencies placed on the Alert List. Successful grant proposals receive a Notice of Grant Award, which acts as the official agreement between the grantee and HRSA. The Notice of Grant Award includes specific requirements for each grantee such as spending caps, timelines, documentation requirements, and submission deadlines. The following primer defines a number of key terms about the grants management process as it relates to the Alert List.

Primer on Grants Management

Awarding Agency. The awarding agency is the agency that awards the grant. To do this, the awarding agency reviews the merits of each proposal and funds the grantee to carry out program objectives.

Placing Agency. The placing agency is the agency that initiates placement of the grantee on the Alert List. The National External Audit Review Center can also indicate that a grantee should be considered for placement on the Alert List.

Grantees on the Alert List. The Alert List identifies grantees that may have one or several issues of concern to HHS. Examples of issues may include:

- o a history of poor performance on previous or existing awards,
- o inexperience in handling of Federal funds,
- o financial instability,
- o inadequate management systems,
- o material noncompliance with the terms and conditions of previous awards, and/or
- o other special circumstances.

High Risk/Special Award Conditions. Special award conditions are attached to a grant award to address a specific grantee vulnerability. A high risk designation by the awarding agency is a prerequisite for the use of special award conditions. Examples of special award conditions may include requiring more frequent grantee reporting or limiting the monthly amount a grantee can draw from its total grant award.

National External Audit Review Center. The National External Audit Review Center, within the Office of Inspector General (OIG), is the HHS focal point for receipt of grantee audits. As part of its review of these audits, the National External Audit Review Center may issue an Alert. This Alert, which is sent to agency Audit Liaison contacts and the Office of Grants, indicates the nature of the problem and states that the entity should be considered for placement on the Alert List.

Grants officers may also attach special award conditions to a grant to address a specific grantee vulnerability. Grants officers are responsible for monitoring the progress of the grant project and the grantee's adherence to these requirements and to any special award conditions.

Alert List and High Risk/Special Award Conditions

The Alert List is maintained by HHS's Office of Grants. The Alert List includes the name and address of the grantee, the date the grantee was placed on the Alert List, the agency that initiated placement of the grantee on the Alert List (the "placing agency"), a contact person at the placing agency, and often a brief description of the reason the grantee was placed on the Alert List.² HHS's policies governing the use of the Alert List are found in Chapter 2.01.101 of the AAGAM and part 2, section 01 of the Grants Policy Directive (GPD) 2.01.

According to the AAGAM, each awarding agency has an affirmative responsibility both to place grantees designated high risk on the Alert List and to remove them in a timely manner. The awarding agency may designate a grantee high risk/special award conditions if it has concerns about the applicant's/recipients ability to meet performance expectations and accountability requirements. According to the AAGAM, this concern may be due to the grantees' inexperience in handling of Federal funds, history of poor programmatic performance on previous or existing awards, financial instability, inadequate management systems, or for other reasons.

An awarding agency may place special award conditions on a grantee to address its concerns.³ According to the AAGAM, special award conditions are used as a means of protecting the Federal Government's interests and trying to effect positive change in a recipient's performance or compliance. The AAGAM specifies that special award conditions, defined as conditions that are "more restrictive than those specified by regulations (e.g., by 45 CFR parts 74 or 92)," may include one or more of the following; however, this list is not all-inclusive:

- Use of a reimbursement payment method rather than advance funding.

² The Office of Grants maintains the Alert List and is responsible for placing the grantee on the Alert List upon recommendation from the awarding agency. For the purposes of this report, we refer to the placing agency as the agency that recommends the placement to the Office of Grants.

³ HHS's regulatory basis for imposing special conditions is found in 45 CFR part 74.14 and 45 CFR part 92.12. (See Appendix A.)

- Use of the deductive method of accounting for program income (where the additive alternative would ordinarily apply or the matching alternative might be appropriate).
- Financial or progress reporting more frequently than quarterly.
- The need for awarding agency prior approval of a cost/activity that ordinarily does not require such approval.

The AAGAM further specifies that special award conditions cannot be applied in the absence of a high risk designation. Additionally, the GPD states that if special award conditions are included in an award, the awarding agency is required to designate the grantee as “high risk/special award conditions” and notify the Office of Grants for inclusion on the Alert List.

Awarding Agency Responsibilities

Awarding agencies have the responsibility to do the following regarding the Alert List: (1) place grantees on the Alert List; (2) check the Alert List; (3) consult with the agency that placed the grantee on the Alert List, (4) monitor grantees when special award conditions are attached to the grant, and; (5) remove grantees from the Alert List in a timely manner. Specific Alert List responsibilities are as follows:

Place. Awarding agencies are responsible for placing on the Alert List grantees that they have designated high risk/special award conditions. To place a grantee on the Alert List, the awarding agency notifies the Office of Grants. The National External Audit Review Center may also indicate that a grantee be considered for placement on the Alert List based on adverse findings in a grantee’s audit. There may be several agencies that place the same grantee on the Alert List.

Check. Awarding agencies are responsible for checking the Alert List prior to awarding a grant. Upon review of the Alert List and consideration of the basis for the high risk/special award condition designation or issuance of an OIG Alert, an awarding agency must determine whether it will independently designate the grantee as high risk/special award conditions.

Consult. If the awarding agency determines that a grantee has been placed on the Alert List by another agency, the agency must consider whether it also should designate the grantee as high risk and include special award conditions in the award. This decision should be made following consultation with the agency(s) that made the designation as it appears on the Alert List to ensure that it is still current and the present situation warrants the designation.

I N T R O D U C T I O N

Monitor. If special award conditions are attached to the grant, the awarding agency is responsible for taking several actions. Specifically, the agency must notify the grantee by transmittal letter of the special award condition (but not the placement of the grantee on the Alert List). The transmittal letter explains the effect of the high risk designation, indicates the corrective actions required, and the time period for correction, among other things. If a special award condition relates to payment, the awarding agency is responsible for notifying the Division of Payment Management when it is imposed and when it is removed.⁴

Remove. If an awarding agency places a grantee on the Alert List, it is also responsible for notifying the Office of Grants when it is appropriate to remove the grantee from the Alert List. Generally, grantees should not remain on the Alert List for more than 2 years. If the grantee is on the Alert List for more than 2 years, the agency that placed the grantee is required to provide justification to the Office of Grants.

Additionally, according to GPD 3.06, awarding agencies are expected to create and maintain files that allow for a third party to follow a paper trail of all decisions made and actions taken throughout the grant cycle.⁵ Grants officers are also expected to maintain the official grant file and to ensure that the contents of all files are current and can be easily identified and accessed.

METHODOLOGY

To determine the extent to which HRSA adheres to Alert List policies, we reviewed HHS policies governing the Alert List. We then reviewed files of grantees on the Alert List and conducted interviews with key agency staff.

Grantee Selection

Based on the departmental Alert List published on the Intranet March 24, 2003, we identified 15 grantees to whom HRSA awarded grants and also placed on the Alert List. This included 13 grantees that

⁴ The Payment Management System is the centralized grants payment and cash management system operated by the Division of Payment Management within the HHS's Program Support Center. The Payment Management System accomplishes all payment-related activities for HRSA and other agencies from the time of award through closeout of a grant.

⁵ GPD 3.06 C(1) and GPD 3.06 C(2)(b)(2)(c).

received HRSA grants in 2002.⁶ Even though a grantee may no longer be funded, as long as it remains on the Alert List and HRSA is noted as the placing agency, an awarding agency may contact HRSA to obtain information on the circumstances that led to HRSA placing that grantee on the Alert List and any current information on the grantee.

To find the HRSA grantees that another agency placed on the Alert List, we compared the grantees on the March 24, 2003, Alert List with a list of all HRSA grantees in fiscal year 2002.⁷ In doing so, we identified an additional 47 grantees that had been placed by another agency, for a total of 62 HRSA grantees on the Alert List. Note that this inspection looks only at grantees that are on the March 24, 2003, Alert List. It does not determine the total number of grantees that HRSA should have placed on the Alert List.

File Review

We requested the complete grant file for each of the 62 HRSA grantees on the Alert List. HRSA provided files for a total of 56 grantees. We requested the other six files several times over an 8-month period; however, HRSA never made these six files available for review.

We conducted an onsite file review in August 2003 of the 56 files that were provided by HRSA. We reviewed these files for evidence that each Alert List policy was followed. We considered all documentation as evidence, including file checklists, e-mails, telephone logs, notes to the file, and other informal notation, as well as standard documentation such as Notices of Grant Award, grantee applications, technical reviews, and audits. We limited our review to 5 years of documentation.

Table 1 shows the number of files of HRSA grantees that we requested and reviewed, by the agency that had initiated their placement. In total, we reviewed 56 files. In some cases, our analysis is based on the 11 grantees that HRSA placed on the Alert List and the 45 grantees that were placed on the Alert List by another agency and not HRSA.⁸

⁶ Two additional grantees on the Alert List did not receive HRSA grants in 2002.

⁷ This list was obtained from HHS's Tracking Accountability in Government Grants (TAGGS) database. The TAGGS database tracks all grants awarded by the Department.

⁸ Note that six files were not made available for review. Four of these files were from HRSA grantees placed on the Alert List by HRSA and two of these files were HRSA grantees placed on the Alert List either by another agency or indicated for placement by NEARC.

Table 1: HRSA Alert List Grantees on the Alert List, By Placing Agency		
Placing Agency	Grant Files Requested	Grant Files Provided for Review
HRSA Only	10	7
HRSA and National External Audit Review Center	5	4
National External Audit Review Center and Another Agency	2	0
National External Audit Review Center Only	38	38
Other Agency Only	7	7
Total	62	56

Source: March 24, 2003, TAGGS Database.

Note: The National External Audit Review Center does not place grantees on the Alert List; it issues an alert to agency liaisons and the Office of Grants that states that the entity should be considered for placement on the Alert List.

Structured Interviews

We conducted structured interviews with four grants officers. We also interviewed one senior member of HRSA’s Division of Grants Management Operations, who is responsible for supervising grants officers, and one senior member of the Office of Financial Policy and Oversight, who is responsible for notifying the HHS Office of Grants when HRSA places a grantee on the Alert List and removes a grantee from the Alert List. These additional respondents will hereinafter be referred to as “grants officials.”

Standards

Our review was conducted in accordance with the “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

HRSA does not consistently follow Alert List policies

We found that HRSA does not consistently follow Alert List policies, including placing, checking, consulting, monitoring, and justifying retaining grantees on the Alert List.

HRSA does not consistently place grantees on the Alert List

We reviewed the files of 56 grantees that were placed on the Alert List either by HRSA or another awarding agency. According to the AAGAM, grants officers are responsible for placing on the Alert List grantees that are designated as high risk. Grants officers designated a total of 6 of the 56 grantees as high risk. They did not place two of these six grantees on the Alert List.

The AAGAM also states that a high risk designation is a prerequisite for special award conditions. Grants officers attached at least 1 of the special award conditions as listed in the AAGAM to the grants of 25 of the 56 grantees. Grants officers designated only 6 of these 25 grantees as high risk and placed only 4 of them on the Alert List.

In addition, grants officers are expected to notify the Office of Grants in writing to place a grantee on the Alert List. They placed a total of 11 of the 56 grantees on the Alert List. However, there was evidence of notification in only 1 of these 11 files.

Our discussions with HRSA grants officers confirm that they have different understandings of when to place a grantee on the Alert List and how to designate a grantee as high risk. One grants officer, for example, would place grantees with financial liability or worsening quality of services provided. Another grants officer would place grantees without protocols or accounting systems, those with safety issues, or those for whom more frequent submission of required documents is needed. When we asked about the process to designate a grantee as high risk, one grants officer noted that instead of a formal designation, HRSA “would rather refer to these as risky behaviors.” The other grants officers reported different procedures they follow when designating a grantee as high risk (as the first step in the process that should lead to placement on the Alert List), which included conducting site visits, obtaining supporting documentation, or notifying the grantee.

Additionally, although the AAGAM lists four specific special award conditions, grants officers have different understandings of what they consider special award conditions that could be used to respond to a grantee that was designated high risk. All grants officers agreed that

F I N D I N G S

drawdown restriction is a type of special award condition. However, other than drawdown restriction, their responses varied, and included such actions as requiring a corrective action plan, more frequent reporting, or technical assistance in response to a high risk designation.

HRSA does not consistently check the Alert List nor accurately document checking it

The AAGAM states that grants officers are responsible for checking the Alert List prior to granting an award. Twenty-four of the fifty-six files reviewed had no evidence that the grants officer checked the Alert List. Twenty-six of the remaining thirty-two files contained a copy of a standardized electronic checklist that included a yes/no checkbox indicating that the grantee was on the Alert List. Another six files had evidence that the Alert List was checked in other types of checklists that are used to record specific program-related activities and grant award processes.

In addition, when we reviewed the 26 files that had copies of electronic checklists, we found that the checklist information was not always accurate. Fourteen of the twenty-six checklists indicated the grantee was “not appearing on the Alert List” when the grantee was in fact on the Alert List.⁹

HRSA does not regularly consult with other agencies to obtain information about the grantee

As stated in the AAGAM, the grants officers must consider whether they also should designate the grantee as high risk and include special award conditions in the award. This decision should be made following consultation with the agency(s) that made the designation as it appears on the Alert List to ensure that it is still current and the present situation warrants the designation.

We found little evidence that HRSA consults with other agencies that place grantees on the Alert List. Other agencies placed 7 HRSA grantees on the Alert List and the National External Audit Review Center indicated 38 HRSA grantees for placement on the Alert List. We found no documentation of any consultation in the files of the seven grantees that other agencies placed on the Alert List. Similarly, we found evidence of consultation in 2 of the files of the 38 grantees that

⁹ This analysis is based on a comparison of the dates the grantee was placed on the Alert List with dates on the electronic checklist. We were unable to conduct a similar analysis for the files that had other types of checklists because they only indicated whether the Alert List was checked, not whether the grantee was found on the Alert List.

the National External Audit Review Center indicated for placement on the Alert List.

In our discussions with grants officers, none reported coordinating with the placing agency or the National External Audit Review Center. Only one grants official reported that a phone call would be made to find out why the grantee was placed on the Alert List.

HRSA does not consistently document certain monitoring activities for Alert List grantees

The awarding agency is expected to complete certain monitoring activities when it attaches a special award condition to a grant. According to the AAGAM, these activities include notifying the grantee of the special award conditions in a letter that indicates the corrective actions required, the time period for correction, and a description of the consequences of not completing the actions required. The awarding agency is also responsible for notifying the Director of the Payment Management System if a special award condition relating to payment was attached to the grant.

Grants officers attached special award conditions as listed in the AAGAM to 25 of the 56 grantees. We found that none of the files for the 25 grantees included transmittal letters to the grantees indicating the corrective actions required, the time period for correction, and a description of the consequences of not completing actions required. (We did find occasional references in which the grantees were made aware of specific actions required to resolve issues.) Additionally, 8 of the 15 files of grantees that had payment-related special award conditions did not include notification to the Payment Management System.

HRSA does not provide justification for retaining grantees whose names appear on the Alert List more than 2 years

The AAGAM states that the placing agency is to provide justification to the Office of Grants when keeping a grantee on the Alert List for more than 2 years. At the time of the file review in August 2003, 7 of the 11 grantees that HRSA placed on the Alert List had been there longer than 2 years. None of these seven files had justification to support these grantees remaining on the Alert List.

In our discussions, grants officers described different processes for retaining a grantee on the Alert List for more than 2 years. Two of the four grants officers mentioned that they contact the grants official responsible for contacting the Office of Grants to request that a grantee remain on the Alert List for more than 2 years. The grants official misunderstood the policy, however, and reported that HHS is supposed

F I N D I N G S

to contact HRSA to keep a grantee on the Alert List for more than 2 years, when the opposite is true.

Grants officers do not use the information on the Alert List to make grant decisions and some report concerns about the information on the Alert List

Grants officers and officials report that grant decisions are based on their own judgments and not on Alert List information.

Specifically, one grants officer noted that they put special award

conditions on a grant based on their own concerns. One grants official further noted that the decision to deny a grant is based on their own reasons, not on whether the grantee is on the Alert List.

Several grants officers' responses further suggest that they are confident that their own decisionmaking adequately protects their grants. As one grants officer reported, ". . . we're pretty confident that we are looking at things that are relevant to us; we're not necessarily looking for someone else's guidance." And, as one grants official reported, ". . . just because someone else puts [the grantee] on the Alert List doesn't mean I agree with them." Rather, as one grants officer acknowledged, they take into account a number of factors such as the type of organization and the need to get services out when making grant decisions.

Grants officers and officials report concerns about the information on the Alert List

In our discussions, three of the four grants officers reported that the Alert List is "not at all useful." Generally, these grants officers explained that the Alert List does not provide current information and that the information on the Alert List is not useful for making decisions about grantees. One grants officer and one grants official also reported that the Alert List is not always useful, in part because they do not always know when the Alert List is updated and posted on the Intranet.

Our review of the Alert List also found that it did not always have useful or complete information. The March 24, 2003, version of the Alert List did not have reasons the grantees were placed on the Alert List for 55 of the 314 grantees. In addition, the reasons that the grantees were placed on the Alert List were not always helpful. For example, reasons given included general statements such as "going concern." Further, for a few grantees the grantee name on the Alert List was markedly different from the name on the grant award.

RECOMMENDATIONS

We determined that HRSA staff do not consistently adhere to policies governing the use of the Alert List. This lack of consistency makes it difficult to ensure that a grantee's risk of programmatic and/or financial failure is communicated to all agencies that award grants and that HHS funds are appropriately safeguarded. Although grants officers note that the Alert List has a number of limitations, it is critical for each agency that awards grants to adhere to HHS policies to make the Alert List an effective means of conveying grantee risk.

This review was conducted at a time when HRSA was consolidating and centralizing its grants management functions and implementing an automated grants management system. These changes may bring greater consistency to its grants management functions and better position HRSA to incorporate the following recommendations. Specifically, we recommend that HRSA:

Ensure that grants officers follow Alert List policies

HRSA needs to make the Alert List a higher profile issue and stress that grants staff need to follow Alert List policies. HRSA needs to ensure that grants officers and grants officials follow policies for placing grantees on the Alert List, checking the Alert List, consulting with the agency that placed the grantee on the Alert List, monitoring grantees with special award conditions, and removing or retaining Alert List grantees when appropriate. HRSA also needs to ensure consistency in placing grantees on the Alert List by providing guidance on high risk designations and special award conditions.

Develop methods to ensure that grants officers follow Alert List policies

HRSA should develop methods to ensure that grants officers adhere to Alert List policies.

- Currently, grants officers have a checklist that includes checking the Alert List to determine whether the grantee is on the Alert List. HRSA may consider revising this checklist to include all Alert List policies and requiring grants officers to complete it for each grantee.
- HRSA may consider implementing an internal file review to ensure that grants officers are documenting that they are following Alert List policies and using the Alert List appropriately.

- HRSA may implement a system to notify grants officers when 2-year time periods expire.
- HRSA may consider providing additional guidance to grants officers and their staffs about the importance of using the Alert List and the need to adhere to policies.

AGENCY COMMENTS

In its comments to the draft report, HRSA notes that it met with Department staff to discuss its concerns with some of the report findings and that the Department concurs with HRSA's use of applying specific conditions for short term compliance in the absence of a "high risk declaration" with grantee placement on the Departmental Alert List.

HRSA further notes that some of the findings in the report may have resulted from a misunderstanding in terminology being used by HRSA staff and OIG reviewers. HRSA also believes that clarifications in Department policies concerning award conditions, issued subsequent to the OIG review, draw into question the validity of some of the report findings. HRSA notes that the new policies recognize circumstances where it is appropriate to apply conditions without placing grantees on the Departmental Alert List.

More specifically, HRSA notes that the Department issued several AAGAM chapters, including section 2.04.104D ("Grant Awards"), which states that a grants officer may place award "restrictions" or "specific conditions" on an award to ensure short-term grantee compliance and that such restrictions may not rise to a level requiring the grantee to be designated as high risk and placed on the Alert List. HRSA states that the OIG may not have been aware of the various types of conditions which have been previously employed and which are now recognized in Department policy. The full text of HRSA's comments is provided in Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

HRSA's comments on our draft report do not respond to our specific recommendations. We hope that HRSA's comments on the final report delineate specific actions HRSA plans to take in response to our findings and recommendations.

In response to HRSA's comments, we wish to clarify several aspects of our analysis. At the outset we should note that, contrary to HRSA's understanding, we took into account AAGAM 2.04.104D ("Grant

Awards”) in our analysis even though it was not in effect during most of our fieldwork.

Moreover, we are aware that HRSA has the ability under current policy to impose conditions of a type or level that do not require a high-risk designation. However, the design of our study accounted for this concern and eliminated those types of situations. Specifically, when we reviewed all the terms and conditions of the grants in our sample that were documented in the files, we identified the conditions that met the criteria of AAGAM 2.04.104D(c) which are defined in AAGAM 2.01.101 and which warrant a designation of high risk and placement on the Alert List. We included the special award conditions that reflected more serious situations requiring placement on the Alert List. Specifically, we included the following categories of conditions imposed by HRSA: reimbursement payment method, financial or progress reporting more frequently than quarterly, and the need for the awarding office prior approval of a cost or activity. These conditions are also identified as special award conditions in 45 CFR section 92.12.

In addition, as stated in the report, our review focused on grantees that were already on the Alert List that had been placed by another agency and/or had been recommended for placement on the Alert List by the National External Audit Review Center because of a systematic audit deficiency. Therefore, by design, the grantees in our review were those that did not have a proven track record but had some history of poor performance identified by another agency and/or by the National External Audit Review Center.

Further, our review showed that the instances in which HRSA attached a special award condition and did not place the grantee on the Alert List were not to ensure short-term compliance or address an innocuous situation. The following examples illustrate the types of situations that we found in our review. In one file, documentation indicated that HRSA had determined that “the grantee has an operating deficit and is not eligible to apply for any other [HRSA] funding until a balanced budget is achieved.” In another file, HRSA noted that the grantee “continues to be plagued with financial concerns” which included \$2.6 million in liabilities. In another file, HRSA noted on the Notice of Grant Award that it had serious concerns about the grantee’s lack of compliance with special conditions related to the submission of its annual audits, financial reports, and its final budget. We also found two instances in which HRSA had designated the grantee as high risk but had not placed the grantee on the Alert List in accordance with Department policy.

We further note that HRSA's comments only address the first finding of our report. They do not address HRSA's violations of other Alert List policies including checking the Alert List, consulting with other agencies to obtain information about grantees on the Alert List, documenting certain monitoring activities for grantees on the Alert List, and providing justification for retaining grantees on the Alert List.

Finally, the Alert List is fundamental to safeguarding Department grant funds and is an important tool for agencies to use to share concerns about particular grantees. However, the value of the Alert List is diminished for all Department grantmaking agencies when agencies fail to provide required information to the Alert List in accordance with Department policies. As a member of the Federal grantmaking community and a steward of Federal funds, HRSA has a responsibility to protect both its own grants as well as those of other awarding agencies in the Department.

PART 74--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT ORGANIZATIONS, AND COMMERCIAL ORGANIZATIONS; AND CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS

Special award conditions.

- (a) The HHS awarding agency may impose additional requirements as needed, without regard to § 74.4, above, if an applicant or recipient:
- (1) has a history of poor performance,
 - (2) is not financially stable,
 - (3) has a management system that does not meet the standards prescribed in this part,
 - (4) has not conformed to the terms and conditions of a previous award, or
 - (5) is not otherwise responsible.
- (b) When it imposes any additional requirements, the HHS awarding agency must notify the recipient in writing as to the following:
- (1) the nature of the additional requirements,
 - (2) the reason why the additional requirements are being imposed,
 - (3) the nature of the corrective actions needed,
 - (4) the time allowed for completing the corrective actions, and
 - (5) the method for requesting reconsideration of the additional requirements imposed.
- (c) The HHS awarding agency will promptly remove any additional requirements once the conditions that prompted them have been corrected.

PART 92--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Sec. 92.12 Special grant or subgrant conditions for "high risk" grantees.

- (a) A grantee or subgrantee may be considered as high risk if an awarding agency determines that a grantee or subgrantee:
 - (1) has a history of unsatisfactory performance; or
 - (2) is not financially stable; or
 - (3) has a management system which does not meet the management standards set forth in this part; or
 - (4) has not conformed to terms and conditions of previous awards; or
 - (5) is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.
- (b) Special conditions or restrictions may include:
 - (1) payment on a reimbursement basis;
 - (2) withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
 - (3) requiring additional, more detailed financial reports;
 - (4) additional project monitoring;
 - (5) requiring the grantee or subgrantee to obtain technical or management assistance; or
 - (6) establishing additional prior approvals.
- (c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:
 - (1) the nature of the special conditions/restrictions,
 - (2) the reason(s) for imposing them,
 - (3) the corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions, and
 - (4) the method of requesting reconsideration of the conditions/restrictions imposed.

▶ A P P E N D I X ~ B



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Resources and Services Administration

APR 12 2006

Rockville, Maryland 20857

TO: Daniel R. Levinson
Inspector General
Office of Inspector General

FROM: Administrator

SUBJECT: Office of Inspector General Draft Report: "Use of the Departmental Alert List by HRSA" Code #OEI-02-003-00011

The Health Resources and Services Administration appreciates the opportunity to provide clarification on its previously submitted comments on the above referenced draft report. Our comments are attached.

Please direct any questions to Ms. Gail Lipton, Director, Grants Policy Division, Office of Federal Assistance Management. Ms. Lipton can be reached at: (301) 443-6509.


Betty James Duke

Attachment

cc: Betty Wu

RECEIVED
2006 APR 16 PM 3:10
OFFICE OF INSPECTOR
GENERAL

**Health Resources and Services Administration's Comments on the Office of
Inspector General Draft Report "Use of the Department Alert List by HRSA"**

OEI-02-03-00011

The Health Resources and Services Administration appreciates the opportunity to provide comment on OIG Draft Report entitled, "Use of the Departmental Alert List by HRSA," OEI-02-03-0001. HRSA further appreciates OIG's incorporating almost all of the editorial and technical comments on the draft which were transmitted on April 27, 2005. However, our staff still have the following concerns which we believe are important both for the record and, if possible, for inclusion in the draft report. These comments are both global and technical in nature. Further, HRSA and Departmental staff met on March 30, 2006 to discuss HRSA's concerns with some of the report findings and the Department specifically concurs with HRSA's use of applying specific conditions of award for short term grantee compliance in the absence of a "high risk" declaration with grantee placement on the Departmental Alert List.

Global Comments

OIG has cited HRSA for failing to consistently place grantees on the Departmental Alert List. HRSA believes that some of these findings may have resulted from a misunderstanding of the terminology being used by HRSA staff and OIG auditors conducting the review. Further, owing to clarifications in Departmental policies concerning award conditions issued subsequent to the OIG review, HRSA believes that some of these findings would no longer represent violations of Departmental policy as the new policies recognize circumstances where it is appropriate to condition awards without placing grantee organizations on the Departmental Alert List.

It is HRSA's understanding that the guidance which OIG used in performing its review of HRSA's use of the Alert List were the regulatory citations at 45 CFR Parts 74.14 and 92.12, as well as Grants Policy Directive 2.01, Special Award Conditions, the Alert List and Debarment, and its corresponding implementation in the Awarding Agency Grants Administration Manual (AAGAM) Chapter 2.01.101. While the regulations discuss the circumstances for using "special award conditions" and provide examples of special award conditions, it is the GPD and the AAGAM chapter that specifically tie placement of special award conditions on a grant to the designation of the grantee as "high risk" with placement of the organization on the Alert List.

On September 2, 2003, the Department issued several AAGAM chapters, including 2.04.104D, Grant Awards. In this chapter, it states for the first time in a Departmentally issued guidance document that a grants management officer may place award "restrictions" or "specific conditions" as identified at 2.04.104D-3A-5 d (1) on an award to ensure short-term grantee compliance that do not necessarily rise to the level of declaring the grantee "high risk" with placement on the Alert List. In this section, while, "special award conditions" are a subset of specific award conditions, the policy does recognize that a grants management officer can place specific restrictions on an

individual award to encourage grantee compliance. Such conditions might result from recommendations coming out of the objective review process or for the need for specific documentation being submitted to the agency. In these circumstances, the use of "specific conditions" is not reflective of poor grantee fiscal management or accountability. Consequently, in these circumstances it would not be appropriate to "designate" the grantee organization as "high risk" with placement on the Alert List.

It is HRSA's understanding that the information in AAGAM Chapter 2.04.104D may not have been developed or available to the OIG before its initial OPDIV reviews were conducted. Consequently, OIG may not have been aware of the various types of conditions which have been previously employed in OPDIVs and which are now recognized in Departmental policy. Additionally, given the potential for confusion in terminology when discussing "award conditions," for some of the grant files OIG reviewed and used as the basis for its findings, it may not have been appropriate for HRSA to declare those grantees high risk with subsequent placement on the Alert List.

The following examples are provided to better understand under what circumstances HRSA's uses specific award conditions but does not declare the recipient high-risk with placement on the Alert List:

As part of HRSA's pre-award assessment of a first time grant applicant proposed for funding, HRSA may request the applicant to provide evidence or documentation concerning its financial accounting and administrative/managerial capacities to enable HRSA, when awarding the grant, to know what, if any, safeguards may be in order. If HRSA is not in receipt of the requested documentation in time of the award, HRSA might place the grantee on draw down restriction as an incentive for the grantee to comply with the request for information to be submitted within 30-60 days. Once the documentation is received and evaluated, HRSA is in a better position to determine whether it is appropriate to either remove or extend the draw down restriction, and/or now apply any "special award" conditions, (including declaring the grantee high-risk, with placement on the Alert List). However, until the documentation is received and evaluated, HRSA strongly believes that it is not appropriate to summarily declare the grantee as high-risk with placement on the alert list as prescribed in the report.

In the post-award context, there also are circumstances where the use of a specific award condition is appropriate as a means to ensure compliance, yet which do not warrant designating the grantee high-risk. For example, a grantee of long-standing with a known track record of reliability, for example, a Harvard University, may have an award issued to it for a single project whose principal investigator is remiss in sending timely required reports to HRSA or who may not be performing as outlined in the approved project proposal. It may be appropriate to place specific award conditions on the grant in question to ensure compliance with reporting and/or more effectively monitor the individual project. Based on OIG's finding, HRSA would have to declare the entire organization, that is, all of

Harvard University, as a high-risk organization with placement on the Alert List. We do not believe that action is justified, nor appropriate, for an organization with an otherwise proven track record. Further, for such organizations with multiple grant awards and from multiple agencies, such action would pose considerable and unnecessary staff burden throughout the Department on grants staff having to review the Alert list placement and confer with HRSA staff to review the reasons for placement on the list.

When HRSA does impose an award condition (in the absence of a declaration of the grantee being high risk with placement on the Alert List), as is the case for the examples identified above, it is generally limited to restricting the grantee's access to direct draw down of payment through PMS. Rather, the grantee must submit a hardcopy Request for Advance or Reimbursement (SF 270) to HRSA's Division of Grants Management Operations for review and approval before payment is authorized. However, unlike the special award condition cited in the AAGAM 2.01.104-4 regarding converting grantees from an advance payment basis to a reimbursement basis, HRSA still permits grantees to submit the SF 270's on an advance basis.

Technical Comment:

OIG has recognized, in part, on page iii of the current draft report, HRSA's concerns raised in our response to the initial draft report that the OIG study was undertaken at a point in time when HRSA was consolidating and centralizing grants management functions and implementing a new automated grants management system. HRSA, however, wishes to emphasize that, at present, as a result of the grants office consolidation and the use of the standardized processes required by the new electronic grants management system, grants management staff are required to consistently check the Department's Alert list, and document their checking the list for each grant award.

Page 8, fourth paragraph, under subsection entitled "HRSA does not consistently place grantees on the Alert List," the last sentence is not clear as to intent. If the intent of the statement is to identify other actions which GMO's use to imply high-risk status in lieu of a formal declaration as such and placement on the Alert List, then it should be more clearly stated.



A C K N O W L E D G M E N T S

This report was prepared under the direction of Jodi Nudelman, Regional Inspector General for Evaluation and Inspections in the New York regional office. Other principal Office of Evaluation and Inspections staff who contributed include:

Vincent Greiber, *Team Leader*

Natasha Besch, *Program Analyst*

Sonjeya Fitzgerald, *Program Analyst*

Nicole Gillette, *Program Analyst*

Alan Levine, *Program Specialist*

Elise Stein, *Director, Public Health and Human Services Branch*

Barbara Tedesco, *Mathematical Statistician*